

Service Date: December 17, 2003

DEPARTMENT OF PUBLIC SERVICE REGULATION
BEFORE THE PUBLIC SERVICE COMMISSION
OF THE STATE OF MONTANA

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| IN THE MATTER of the Application of |) | UTILITY DIVISION |
| Northwestern Energy, L.L.C.'s 2002 Annual |) | |
| Avoided Cost Compliance Filing – |) | DOCKET NO. D2002.7.80 |
| Schedule Nos. QFLT-1 and STPP-1 |) | Order No. 6434c |

FINAL ORDER

FINDINGS OF FACT

Background

1. On June 28, 2002 Northwestern Energy (NWE) filed its 2002 Annual Avoided Cost Compliance Filing, Docket 2002.7.80, for the July 2002 to June 2003 contract year. The filing includes the prefiled direct testimony of Mr. Mark A. Stauffer. Among other requests the filing seeks to merge the prior year's Docket D2001.7.100 record information into D2002.7.80. The 2002 filing also proposes certain new QFLT rates and a new System Lambda for the STPP tariff.

2. On August 13, 2002 pursuant to a Notice of Commission Action (NCA) the Commission approved of NWE's filing on an interim basis and the Commission issued on October 11, 2002 an Interim Order (6434b) with an August 14, 2002 effective date. Also on October 11, 2002 the Commission issued a Notice of Staff Action (NSA) amending the procedural schedule and setting a December 19, 2002 hearing date. CELP submitted on October 29, 2002 the prefiled direct testimony of its witness Mr. Kevin Woodruff. On November 27, 2002 CELP filed a motion to continue. NWE filed on December 3, 2002 the rebuttal testimony of Mr. Stauffer. On February 6, 2003 NWE filed a motion to amend the Procedural Order adding 60 days to all upcoming procedures. The Commission granted on March 6, 2003 the intervention request of Navitas Energy Incorporated.

3. On May 9, 2003 CELP and NWE jointly filed a Stipulation Agreement Regarding the avoided cost compliance filing. In a regularly scheduled work session of June 3, 2003 the

Commission voted to set the stipulation and other matters for hearing.

4. On June 30, 2003 NWE submitted its annual avoided cost filing for the 2003/2004 contract year. This filing was assigned Docket 2003.7.86. In Order No. 6501 the Commission approved on an interim basis the June 30, 2003 filing.

5. In a July 30, 2003 Notice of Public Hearing in D2002.7.80 the Commission listed issues that would be addressed in an August 20, 2003 hearing. The Commission Notice identified the following issues that were to be addressed:

(a) As for the CELP / NWE contract, as amended, specific issues may include: (i) NWE inclusion of security provisions in other QF contracts and the apparent exclusion of a security provision in the CELP contract; (ii) the existence, and the impact, of contract amendments on CELP's rates, requiring annual updates; and (iii) liquidated damages provisions.

(b) Whether and what other QF contracts having the same docket vintage (*e.g.*, PSC Docket No. 83.1.2) as the CELP contract might be affected consistent with the CELP / NWE settlement.

(c) An estimate of the true-up amount (the interim approved versus stipulated rates with interest) to close out this docket.

(d) Generally, the current analytical basis (*i.e.*, modeling and input assumptions) and the cost basis for the STPP-1 rate. Specifically, how the energy rate is computed and why there is no capacity payment.

6. CELP filed on August 5, 2003 a Motion to stay the hearing and a motion for an expedited ruling. CELP's motions also opposed the issues in part (a) of the Notice as new and therefore beyond the scope of the hearing. In its reply comments NWE concurred with CELP's motion.

7. The hearing was convened on August 20, 2003 and did not include issues in part (a) of the Commission's Notice. During the hearing NWE submitted exhibits responsive to the other issues raised in the Commission's Notice.

8. To address policy issues that were either not raised or incompletely addressed in the August 20, 2003 hearing in this docket and in Docket 2002.6.63 the Commission consolidated with NWE's 2003 avoided cost filing in D2003.7.86 a number of policy issues. In a September

18, 2003 Notice of Additional Issues(Order 6501b) the Commission raised the following additional issues that were to be addressed in NWE's annual avoided cost filing. The five issues included:

Issue 1. Contract Issues. Whether and how the CELP (Colstrip Energy Limited Partnership) contract was amended since initially consummated with NWE (f/k/a MPC). The inclusion of security and liquidated damages provisions in CELP's contract with NWE.

Issue 2. STPP Issues. The analytical basis for energy and capacity rates. The merit of opportunity cost values, sales and purchases, for energy and capacity rates.

Issue 3. Long-Term Tariff for Small QFs. Whether there is merit in a long-term standard avoided cost rate option for relatively small QFs. One threshold for small is the 3 MW criterion in existing rules. (A.R.M. 38.5.1902(5)) Another matter regards the cost/market basis for energy and capacity rates for such a tariff. Still another matter regards the allowed length of long-term contracts (e.g., 4 to 35 years). How any rate options should be levelized is another related issue (e.g., fully, partially levelized). Finally, the appropriate cost basis for such a rate is of paramount interest. Options for the cost basis include but are not limited to full requirements contracts (e.g., that NWE has with PPL), short- and long-term opportunity values (sales and purchase values) in the markets accessible to NWE for firm and non-firm power; another option might include direct reference to recognized market prices (e.g., COB, Mid-Columbia) with appropriate adjustments for transmission.

Issue 4. Technology Based Rates. Whether merit exists in separate non-discriminatory and standard rates for the various qualifying small power production and cogeneration technologies. Candidate technologies include hydro, wind, fossil fuels, and renewable energy fuel sources e.g., hog fuel. The analytical basis for such rates (e.g., the long-term rate discussed in Issue 3 above).

Issue 5. Limited QF Power Procurement. Whether it is legal and whether it is advisable to place limits on the amount of QF power NWE would be obliged to acquire under a newly tariffed long-term or under a short-term contract (e.g., the STPP), for QFs less than 3MWs in size.

9. In an October 30, 2003 NCA the Commission affirmed its intent to proceed with

D2003.7.86. This affirmation denied NWE's motion to suspend pending bankruptcy.

Commission Decision

10. The Commission finds merit in approving the CELP/NWE stipulated rates in this docket and the remaining interim approved rates with a necessary true up. Remaining issues involving costing and pricing policies will be addressed in D2003.7.86.

CONCLUSIONS OF LAW

1. The Montana Public Service Commission properly exercised jurisdiction over the parties and matters in this proceeding pursuant to Title 69, Chapter 3, MCA.

2. The Commission has provided adequate notice and opportunity to be heard to all interested parties in this matter.

ORDER

It is hereby ordered the CELP/NWE stipulation is approved, the interim rates are approved on a Final basis, and all remaining issues not decided in this order will be reviewed in D2003.7.86.

DONE AND DATED this 26th day of August 2003, by a vote of 5 to 0.

BY ORDER OF THE MONTANA PUBLIC SERVICE COMMISSION

BOB ROWE, Chairman

THOMAS J. SCHNEIDER, Vice Chairman

MATT BRAINARD, Commissioner

GREG JERGESON, Commissioner

JAY STOVALL, Commissioner

ATTEST:

Connie Jones
Commission Secretary

(SEAL)